

I yield the floor.

The PRESIDING OFFICER. The Chair, in his capacity as a Senator from the State of Utah, suggests the absence of a quorum.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mrs. HUTCHISON. On behalf of the leader, I ask unanimous consent that there now be a period for morning business, with Senators permitted to speak for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

PATIENTS' BILL OF RIGHTS

Mr. KENNEDY. Mr. President, the matter that I want to address, again, is the issue of the Patients' Bill of Rights. It is time for our Republican leadership to stop the blocking of the Patients' Bill of Rights. It is time for them to stop protecting the insurance company profits and start protecting the parties. It is time for them to stop manipulating the rules of the Senate to deny the American people the protections they deserve.

It is clear what is going on here. It is clear to every Member of the Senate. It should be clear to the American people. The American people want Congress to pass strong, effective legislation to end the abuse by HMOs, the managed care plans, and the health insurance companies.

The Patients' Bill of Rights, sponsored by Senator DASCHLE and Senate Democrats, provides the needed and long overdue antidote to the festering and growing abuses. Our goal is to protect patients and see that insurance plans provide the quality care they promise but too often fail to deliver.

Two hundred groups of patients, doctors, nurses, and families have announced support for our bill and are begging the Republican leadership to listen to their voices. I have the list of the various groups supporting our legislation. They represent virtually all of the major doctor and nurse organizations and consumer groups, starting with the American Medical Association, the various cancer societies, the National Breast Cancer Coalition, and all of the American nursing associations. The supporters also include those groups that are most interested in the health care of children including the Children's Defense Fund and the American Academy of Pediatrics. These groups also represent our senior citizens including the National Council of Senior Citizens. The bill is also supported by groups that are most interested in mental health, the Mental Health Association, and those groups

most concerned about disability policies including the Multiple Sclerosis Society, United Cerebral Palsy, the American Academy of Neurology, and the Center on Disability and Health.

This, Mr. President, is only one page of a series of pages of different groups where it can be said, without contradiction, that every major medical association in our country supports the Daschle proposal which is sponsored by the Democrats. Virtually every single doctors organization, every single nurses organization, every single consumer organization, every organization that has represented children in our society, every association that represents cancer victims, every association that represents the disability community—every one of those organizations, plus many others, support our particular proposal. There is not one organization, not a single organization, that supports the alternative Republican proposal. We have asked day in and day out for them just to find one organization representing any of the doctors or nurses, children's groups, women's groups, cancer victims groups, disability groups, any of those groups in our society, and all we have is silence.

This isn't a matter that we are advocating because of our particular interest. We are advocating on behalf of all of these organizations and all of the various patients and all of the various families that are part of this central concern about how we best can protect the families in this country. The best way those families can be protected is, at least, through debate on a Patients' Bill of Rights and, I believe, by the enactment of this legislation.

As we have said on many different occasions, these are commonsense solutions to the kind of problems that are real problems out there and that are being faced by families every single day. If a child is sick and the parents of that child belong to one HMO, that ambulance has to drive by the nearest emergency room and go to an emergency room across town because it is on the list of that HMO. When that child is in an emergency situation, they ought to be able to go to the nearest hospital—that is one of our bills' protections. It is listed right here. We believe that child ought to have the opportunity to go to the nearest emergency room and have the kind of immediate attention, but also the follow-up attention that they need.

That right would be guaranteed under our Patients' Bill of Rights. We want to debate that issue. That is a commonsense proposal. It is a commonsense proposal that any family can understand. If there is going to be an emergency affecting a child, it makes no sense to drive them by the nearest emergency room and take them clear across town to a more distant emergency room if that child needs immediate medical attention.

That is common sense. That protection is here. We ought to be able to debate that particular issue, but we are

denied that opportunity. We ought to be able to get to it. I believe it wouldn't take a great deal of time.

The list goes on. Our bill was introduced in March. But, the Senate has taken no action because the Republican leadership has been using every trick in the procedural playbook to prevent a meaningful debate. The Republican leadership is abusing the rules of the Senate so that the health insurance companies can continue to abuse patients. That happens to be the fact.

We have too many instances of reports from patients that say, every single day we fail to provide these guarantees, members of their family are put at risk. Every day we continue to deny women who have breast cancer the opportunity to be involved in clinical trials at places like the Lombardi Center, we are putting those particular women at risk.

As I mentioned yesterday, out at the Lombardi Center they have eight professional individuals whose only job is to argue with the HMOs to permit the parties involved, access to the clinical trials their doctors say are necessary but that the HMO will not permit them access to.

Our bill provides these kinds of protections. It is common sense. Without these kinds of protections, we are endangering the lives of those individuals who ought to be a part of the clinical trials. That is a very important protection.

Every day, we are denied that kind of debate and resolution, but we still find that patients are abused by too many of the HMOs. The Republican leadership wants to gag the Senate so that HMOs can continue to gag the doctors who tell patients about needed treatments that are too expensive for the HMO balance sheet.

I use those words "gag the Senate" because all we have had on the other side is the proposal that you can have one, two, or three amendments but no other. You can't have any others. We are not going to take the time of the U.S. Senate to do it, although we did find time to have a debate on the issue of salting; we had time to debate that issue. We had time to debate the issues on the Vacancies Act. We have had time to debate issues like bankruptcy which affects 1.2 million people. But our patient protections bill, which affects tens of millions of our fellow citizens, we evidently, haven't got the time to debate that.

The Republican leadership wants to deny a fair debate on the Patients' Bill of Rights so HMOs can continue to deny the needed patient care. The Republican leadership wants to avoid accountability in the U.S. Senate so that managed care plans can avoid accountability with their unfair decisions, when their unfair decisions kill or injure patients. The Republican leadership has found time to call up the Vacancy Act, the salting bill, the Child Custody Act, the Bankruptcy Act, and the Internet tax bill. So it is clear that

protecting patients from abuse by HMOs and health insurance companies is a priority for American families, but not for the Republican leadership.

How else can that be explained? How else can you explain the fact that the Republican leadership has called up these different pieces of legislation, but denies us the opportunity to debate this issue, which is of essential importance?

Listen to this, Mr. President. The Republican leadership, just yesterday, agreed to a unanimous consent agreement on the Internet tax bill that would have allowed all relevant amendments—no limitation on the number of amendments, no limitation on the time to debate each amendment, and no limitation on the time for the overall debate. We should have the opportunity to do that on the Patients' Bill of Rights, but, oh, no, we can't do that with the Patients' Bill of Rights—even though the failure to provide these protections puts at risk so many fellow citizens every single day.

But no, the Republican leadership said instead we will have a consent agreement on the Internet tax bill. I wonder how many people here in the Senate, let alone those who are watching, would feel that particular issue is of more importance than the Patients' Bill of Rights. We have moved ahead now on the questions of that particular legislation, and I intend to support it. It is important legislation, particularly for a State like mine, Massachusetts, with a lot of high tech and similar kinds of issues. But, Mr. President, to put this bill on the same level as what we are talking about with the Patients' Bill of Rights, it just shouldn't be.

Senator DASCHLE asked Senator LOTT for a similar agreement on the Patients' Bill of Rights on June 25. He asked him for an agreement on July 29. He asked him on September 1, and he asked him on September 9. Each time, Senator LOTT, the Senate Republican leader, said no. Do we understand that, Mr. President? On June 25, on this legislation—the Patients' Bill of Rights, Senator DASCHLE asked for the same kind of agreement made yesterday by the Republican leadership on the Internet tax bill. He asked for it on July 29. He asked for it September 1. He asked for it on September 9. Each time, Senator LOTT and the Senate Republicans said no.

Senator DASCHLE also offered to agree on May 12 and on July 16, to a far more restrictive agreement, limiting the number of amendments, but Senator LOTT and the Republicans said no. Senator LOTT and the Senate Republicans are perfectly willing to agree to essentially unlimited debate on the Internet tax bill, but they are not willing to allow any reasonable opportunity to debate, amend, and vote on the Patients' Bill of Rights. This record of abuse should be unacceptable to the Senate, and it certainly is unacceptable to the American public.

What does our legislation do, and why is the Republican leadership so

anxious to prevent its consideration? Our bipartisan Patients' Bill of Rights takes insurance company accountants out of the practice of medicine and returns decisionmaking to patients' doctors, where it belongs. That is it. When you come right down to it, there it is. When you are going to the emergency room, an accountant can say, "No, you can't go there, you have to go across town." Our bill says if you have an emergency, go to the nearest one. If you need access to a specialist and the primary care physician says go to a specialist, you can go to a specialist. Or if you need a pediatric specialist, where a child has cancer—you can go to an oncology specialist for children. These are common sense protections. It is the doctors, the patients, the medical professions making the decision, not the accountants. That's the bottom line.

Mr. President, when we say these are commonsense solutions, I daresay that 99 percent of the American people would agree that doctors and nurses ought to make the decisions with regard to health care issues for your family and for your children, not accountants. That is what we are trying to do and that is at the heart of this debate. But we are denied the opportunity to have that debate because once you go and say you are going to have the medical decisions affecting your family decided by doctors and trained medical professionals, it somehow may threaten the profits of the health delivery system, the HMOs. Those HMOs have layers of different individuals that say "no."

I am reminded of when President Clinton said just a week ago, "You never find an accountant in an HMO that loses his job for saying 'no.' They don't get fired. The ones that get fired are the ones that say 'yes.'" Yes, they need to go to a specialist; yes, they need additional kinds of important types of prescription drugs; yes, they need to have the kind of care that may be more costly, but, more importantly, may save the life of that individual; and, yes, it may very well be if those people get better, it would be less costly to the HMO over a long period of time. That is the issue, Mr. President. That is the bottom line.

Our program simply guarantees people the rights that every honorable insurance company already provides, and provides an effective and timely means to enforce these rights. The good, honorable insurance companies do that, Mr. President, and so do some of the HMOs. But, many of them do not. And what happens is they obviously have the competitive advantage over the good ones. That is wrong. They have the competitive advantage because they shortchange the protection of their consumers, and that is what is at the heart of this whole debate. The protections we provide, as I mentioned, are commonsense components of good health care that every family believes they were promised when they pur-

chased their health insurance and paid the premiums. Virtually all of the protections in this legislation are already available under medical care.

As I mentioned, of these 15 protections which are at the heart of our legislation, over half of them are already in the law under Medicare. Over half of them have been unanimously recommended by the President's bipartisan commission—not in legislation, but recommended as being essential in terms of good health care. And we know that many of them have been recommended by various health care plans, and many have even been recommended by the insurance commissioners that have responsibility—made up of Republicans and Democrats alike.

You cannot find on this list a single one of these commonsense protections that haven't been recommended by at least one of those four groups. And most of them have been recommended by two, or even three, of those groups. These aren't off-the-wall kinds of protections. These are commonsense protections. They are recommended by those who understand what the opportunity and the problems are in terms of health care delivery by HMOs. That is it. Why don't we have the opposition saying, "Where did you find 5, or 6, or 7, or 10 of those various recommendations? Where in the world did they come from? Who thought those up?" That isn't an argument that is made. All 15—are either recommended by the bipartisan President's commission, the health plan agencies themselves, Medicare, or the insurance industry themselves. That is why, when we say these are common sense, they are, Mr. President.

If you are not going to find the various health plans responding to these recommendations and enforcing them, at some time you are going to have to go ahead with this. I daresay that the very good HMOs are complying with this now. They have nothing to fear. That is why many of the HMOs endorse this, because they are already doing it. The good ones are already doing it. The good ones have absolutely no fear about it. It is just the other ones. Those are the ones that result in the kinds of tragedies that have been listed by so many of our colleagues over the preceding weeks and months. These are commonsense rights that provide access to the appropriate specialists when the patient's condition requires specialty care. They allow people with chronic illnesses and disabilities to have referrals to the specialists that they need on a regular basis. They provide for a continuity of care so the people will not have to interrupt their course of treatment and find another doctor because their health plan drops their physician or because their employer changes health plans in the middle of a treatment, for example.

When a member of the family is being treated with chemotherapy and has to have a combination of treatment over 6 or 12 months, or 18 months,

to find out in the middle of that, after 5 months, with all the kinds of anxieties that people are affected by, that the particular company has changed HMOs and suddenly that doctor and the nurse and the treatment are pulled out from underneath you, we think that family ought to be protected. That individual who is going through that particular chemotherapy, or specialized care, ought to be able to complete that particular treatment.

Is that such a radical idea, when you have an individual who has had all of these kinds of concerns—not just financial concerns, but the emotional, the pain, and the suffering—and finally to have what is so important, the doctor-patient relationship, the trust and confidence in that doctor, and then, because some bureaucratic decision is made to pull that doctor away from that particular patient—we think there ought to be a guarantee that there can at least be the continuation of care for that particular incidence of care.

Is that so dramatic? Is that so unreasonable? Is that so outrageous? It seems to me that is common sense.

No patient with symptoms of a stroke should be forced to delay treatment to the point where paralysis and disability are permanent because a managed care accountant does not respond promptly and appropriately.

Patients with serious illnesses, like cancer, Alzheimer's, osteoporosis, or rheumatoid arthritis, who cannot be helped by standard treatment, should have the right to participate in the quality clinical trials that can help find a cure or offer the hope of improvement. Traditionally, insurance has allowed patients this opportunity. But, no; managed care is saying no to both the patients and medical personnel. Now, too many of the managed care companies are saying no to both. Patients and medical research are suffering.

It was unthinkable 5 years ago that when a doctor recommended that a child participate in a clinical trial, the insurance wouldn't cover them. They all did. It has only been in the most recent times where it is becoming a pattern and practice of too many HMOs that say no, we are not going to permit you to participate, even though a doctor believes that it is in the health interests of the individual to participate in those particular clinical trials.

Mr. President, the thing that is really so shocking is that we are now seeing extraordinary breakthroughs—every single week there are new medical breakthroughs. Particularly in the areas of cancer, there are new medical breakthroughs, and specifically in the area of breast cancer.

Look at all of the work that has been done in terms of the mapping of the human gene and isolating the various DNA through research. Look at the extraordinary work that is being done out at NIH and a few of the other great research centers, and the new kinds of opportunities that are available

through research that are targeting these kinds of illnesses and diseases. I personally believe that the next century is going to be the century of the life sciences. Just at a time when we have the greatest opportunity for cures of the most dreaded disease, we are closing down the opportunities for participating in these clinical trials. It is just extraordinary.

In the testimony that we have seen, it is clear that there isn't really any additional cost to the various HMOs, because all they are asking for is continuity of care for the patient, and just to continue to pay the outlay—not for the particular analysis of the various clinical trials, not for the new kinds of medications that might be rare and expensive, not to do summations, or pay, or participate in terms of these other kinds of studies. Absolutely not. All the HMO has to do is the continuity of care—just provide the kind of care that they would otherwise be providing.

That is the amazement of some of the top researchers who appeared before our forums, who were in charge of some of the most important clinical trials in this country, because they say it really doesn't cost the HMO any more. The fact is, if the patients participate, they may very well and so often do get much better, and it saves the HMO a great deal of resources and funding. That is why there is an absolute disbelief on the part of so many of the top researchers.

They pointed out that not only were we disadvantaging so many individuals, particularly in the area of cancers, and specifically in the area of breast cancer and clinical trials, but also that the research progress was being hurt here in the United States because of the failure of participation of many of these patients.

As I mentioned just a moment ago, in all of the various forums that we had, there were many different facts that stood out. But when you have the top clinicians say that at the Lombardi Clinical Research Center, here within the shadow of the Nation's Capitol, they have eight highly professional people who are spending all of their time all day long wrestling with HMOs based on the fact that doctors have recommended that their patients participate in these clinical trials, but yet still have to spend all of their time arguing with the HMO to permit those individuals to actually participate in these clinical trials. It is absolutely beyond belief to me, absolutely beyond belief.

Mr. DURBIN. Mr. President, will the Senator yield for a question?

Mr. KENNEDY. I am glad to yield for a question.

Mr. DURBIN. If I understand, the statement is that before we go home we need to address the Patients' Bill of Rights. It appears that there is a wide public sentiment in support of this. It isn't a partisan issue, by a long shot. All the polls suggest that the voters, almost uniformly—Democrats, Repub-

licans, independents—believe that this is a critical and important issue.

When I brought this issue to the State of Illinois and visited a hospital with a doctor, he told me a story of a woman bringing her son in complaining of headaches on the left side of his head. The doctor thought that a CAT scan was indicated to see if a tumor was present. Before he told the mother, he called the insurance company. They said they would not pay for it. The doctor had to go back into his office and tell the mother that he thought they didn't need to do anything. He was prohibited by the terms of his contract with the insurance company from even telling the mother that he had been overruled by the insurance company. Think of that—if you are bringing your son or daughter into a doctor, that you could be treated that way.

What Senator KENNEDY is suggesting, and many of us believe is important before we go home, before we address other issues on the floor: We should take up the Patients' Bill of Rights for that mother and the millions of others like her across America who are counting on us to do something substantive before we leave.

I fully support the Senator.

Mr. KENNEDY. If I could just add to what the Senator has pointed out, would you believe that in the Republican proposal, for example, any medical procedure that wasn't over \$1,000 could not be appealed? And so for the kind of situation that the Senator is talking about, under the Republican proposal, they say, oh, look, we have taken care of that, except if that medical procedure is less than \$1,000. Then there is no opportunity for appeal. So, effectively, you are saying there are no MRIs for any child who falls off a bicycle, gets hit playing football, falls down or has an accident playing hockey. And the Senator from Illinois knows families as I do that deny their children the opportunity to play sports because they haven't got health insurance or because they are not going to be able to get any kind of coverage for sickness or illness.

As bad as it is, as the Senator has pointed out, we ought to have an opportunity—would the Senator not agree, to debate this sort of phony protection advanced by the Republicans, saying we will guarantee some opportunity for appeal but not if it was under \$1,000.

Patients should have the right to appeal decisions of their plans to independent third parties. Today, if a health plan breaks its promise, there is no remedy that can provide relief in time to save a life or prevent a disability.

Independent review was recommended unanimously by the President's Commission. It has worked successfully in Medicare for over thirty years. Families deserve the basic fairness that only an impartial appeal can provide. Without such a remedy, any "rights" of patients exist on paper

only—and they are often worth no more than the paper on which they are printed. When the issues are sickness and health—and often as serious as life and death—no health insurance company should be allowed to be both judge and jury.

In addition, when the misconduct of managed care plans actually results in serious injury or death, patients and their families should be able to hold the plans liable in court. Every other industry in America can be held responsible for its actions. Why should health plans, whose decisions truly can mean life or death, enjoy this unique and unfair immunity?

Under current law—the Employee Retirement and Income Security Act—patients whose lives have been devastated or destroyed by the reckless behavior of their health plan have no right to go to court to obtain an appropriate remedy under state law. ERISA “preempts” all state remedies. Patients are limited to the narrow federal remedy under ERISA, which covers only the cost of the procedure that the plan failed to pay for. You can be crippled for life by cancer because your plan refused to authorize a test costing a few hundred dollars to detect the cancer in its early stages—and all you can get back to help support your family is the cost of the test you failed to get.

During the debate on the tobacco legislation, Republicans and Democrats alike voted overwhelmingly to support the principle that no industry in America should be exempt from accountability for its actions. Because of ERISA preemption, one industry alone—the health insurance industry—enjoys this protection today. That is wrong—and the Senate should say it's wrong.

During the debate on welfare reform, many on the other side of the aisle spoke strongly in favor of the need for individuals to take responsibility for their actions. It is ironic that some of those who spoke most strongly for responsibility for poor single mothers are opposed to responsibility for a powerful industry that earns tens of billions of dollars in profits every year.

What most Americans do not know—and what the opponents of change ignore—is that ERISA pre-emption does not apply to state and local employee health plans. Employees of the city government or state government, whose health benefits are provided by taxpayers, can hold their health plan accountable in court if it kills or injures them. But equally hardworking families down the street are defenseless—because they happen to work for private industry.

Our legislation is truly a Patients' Bill of Rights that will provide these protections and more. It is a moderate, responsible, and effective response to the widespread problems patients and their families face every day. That is why it is supported by a broad and diverse coalition of doctors, nurses, patients, and advocates for children,

women, and working families. That is why it enjoys bi-partisan support from members of Congress on both sides of the aisle, including a courageous physician, Dr. GREG GANSKE, a Republican Congressman from Iowa, who has seen the abuses of managed care first-hand.

The Republican leadership plan, by contrast, is not supported by any group of doctors or nurses or patients. It has no bi-partisan support. It is an industry profit protection program, not a patient protection program. It is not a Patients' Bill of Rights. It is a Patients' Bill of Wrongs. That is why we need a full debate—so that it can be amended and improved until it provides the protections patients need.

If the Majority Leader will stop abusing the rules of the Senate and allow this debate to proceed, I believe that the Senate will pass strong reforms that will be signed into law by the President. The American people deserve real reform, and I believe that when the Senate votes in the clear light of day, it will give the American people the reforms they deserve. This issue is a test of the Senate's willingness to put a higher priority on the needs of families than on the profits of special interests. And it is time for the Senate to act.

The choice is clear. The Senate should stand with patients, families, and physicians, not with the well-heeled special interests that put profits ahead of patients.

The American people know what's going on. Movie audiences across the country erupt in cheers when actress Helen Hunt attacks the abuses of managed care in the film “As Good As It Gets.” Helen Hunt won an Oscar for that performance, but managed care isn't winning any Oscars from the American people. Everyone knows that managed care today is not “as good as it gets.”

Too often, managed care is mismanaged care. No amount of distortions or smokescreens by insurance companies can change the facts. The Patients' Bill of Rights can stop these abuses. Let's pass it now, before more patients have to suffer.

I thank the Chair. I thank the Senator.

U.S. FOREIGN OIL CONSUMPTION FOR WEEK ENDING SEPTEMBER 25

Mr. HELMS. Mr. President, the American Petroleum Institute reports, for the week ending September 25, that the U.S. imported 9,953,000 barrels of oil each day, 1,691,000 barrels a day more than the 8,262,000 imported during the same week a year ago.

Americans relied on foreign oil for 54.6 percent of their needs last week. There are no signs that the upward spiral will abate. Before the Persian Gulf War, the United States imported about 45 percent of its oil supply from foreign countries. During the Arab oil embargo in the 1970s, foreign oil accounted for only 35 percent of America's oil supply.

All Americans should ponder the economic calamity certain to occur in the U.S. if and when foreign producers shut off our supply—or double the already enormous cost of imported oil flowing into the U.S.: now 9,953,000 barrels a day at a cost of approximately \$132,175,840 a day.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Wednesday, September 30, 1998, the federal debt stood at \$5,526,193,008,897.62 (Five trillion, five hundred twenty-six billion, one hundred ninety-three million, eight thousand, eight hundred ninety-seven dollars and sixty-two cents).

One year ago, September 30, 1997, the federal debt stood at \$5,413,146,000,000 (Five trillion, four hundred thirteen billion, one hundred forty-six million).

Five years ago, September 30, 1993, the federal debt stood at \$4,411,488,000,000 (Four trillion, four hundred eleven billion, four hundred eighty-eight million).

Ten years ago, September 30, 1988, the federal debt stood at \$2,602,338,000,000 (Two trillion, six hundred two billion, three hundred thirty-eight million).

Fifteen years ago, September 30, 1983, the federal debt stood at \$1,377,210,000,000 (One trillion, three hundred seventy-seven billion, two hundred ten million) which reflects a debt increase of more than \$4 trillion—\$4,148,983,008,897.62 (Four trillion, one hundred forty-eight billion, nine hundred eighty-three million, eight thousand, eight hundred ninety-seven dollars and sixty-two cents) during the past 15 years.

MAJOR GENERAL WILLIAM F. MOORE, USAF

Mr. LEVIN. Mr. President, I wanted to take the opportunity to bring to the attention of the Senate the outstanding and continuing service of a fine Air Force officer, General William F. Moore, USAF.

For almost three years, General Moore has served as Director of Special Programs in the Office of the Secretary of Defense. In this capacity, he was responsible for coordinating planning, budgeting, and management of very sensitive Department of Defense special access classified programs.

In fulfilling these duties, General Moore has had frequent contact with the leadership and members of the defense oversight committees in Congress. I believe that General Moore has executed these duties in an exemplary manner. General Moore always operated in a very forthcoming manner, was sensitive to the needs of Congressional oversight committee members, and made great strides in improving the Congressional understanding and coordination of special access programs. I would point out that our former colleague, Secretary of Defense